HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5744 of 2007

Dated:22.03.2007

Between:

Ongole Ramanaiah.

…Petitioner

and

The Regional Joint Commissioner and others.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5744 of 2007

ORDER:

The petitioner herein is the tenant of agricultural land belonging to Sri Kodanda Rama Swamy Temple after coming into force of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), as amended by Act No.27 of 2002. The petitioner made an application before the second respondent under Rule 3 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short 'the Rules'), seeking a declaration that he is a landless poor person as per sub-section (2) of Section 82 of the Act. By order, dated 23.09.2004, the second respondent rejected the application, observing that as admitted by the petitioner in the statement given before him that he owns lands admeasuring Acs.4.42 cents comprised in survey No.40/2 belonging to the temple and therefore, he is not a landless poor person. Feeling aggrieved by the same, he preferred an appeal under Rule 4 of the Rules. The first respondent-appellate authority again perused the record and recorded a finding that the petitioner being in possession of the land admeasuring Acs.4.42 cents cannot be considered as landless poor person as defined under sub-section (2) of Section 82 of the Act. This order is assailed in this Writ Petition.

Learned Counsel for the petitioner submits that the petitioner is in possession of wet land admeasuring less than Acs.2.50 cents and both the authorities failed to appreciate the pahanies and other revenue records produced by the petitioner. Learned Standing

Counsel for the respondents refutes the submission.

A perusal of the order passed by the original authority as well as appellate authority would reveal that when the matter was pending before the second respondent, the petitioner gave a statement in which he admitted that he is in possession of Acs.4.42 cents in survey No.40/2. This was the best evidence available to belie the contention of the petitioner that he is a landless poor person. The finding of the Assistant Commissioner was rightly upheld by the appellate authority and no interference is called for in the Writ Petition. This Court, however, observes that as and when the land is put to auction for leasing out the land as per Rules, it shall be open to the petitioner to participate in the auction.

The Writ Petition, with the above observation, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

22.03.2007
GJ